
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

DWAYNE CAVANAUGH,

Petitioner,

versus

WARDEN VASQUEZ,

Respondent.

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CIVIL ACTION NO. 1:13-CV-242

**MEMORANDUM ORDER OVERRULING PETITIONER’S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Petitioner Dwayne Cavanaugh, a prisoner confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the petition without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the magistrate judge’s Report and Recommendation.

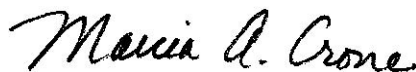
The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Citing *Braddy v. Fox*, 476 F. App’x 51 (5th Cir. 2012),

petitioner argues that he is allowed to challenge the conditions of his confinement in a habeas petition. In *Braddy*, the petitioner claimed that the government breached a term in the written plea agreement by housing him in close proximity with his co-defendants. The Fifth Circuit remanded the case to the district court to determine whether the plea agreement was breached. In this case, unlike *Braddy*, petitioner does not assert that a provision in his plea agreement requires the Bureau of Prisons to provide specific conditions of confinement. Rather, petitioner argues that his plea agreement implicitly guarantees him conditions of confinement required by contracts, statutes, regulations, ordinances and rules governing the Bureau of Prisons. This argument lacks merit. Whether the Bureau of Prisons is providing petitioner with the conditions of confinement to which he is entitled is not a matter for habeas review.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 8th day of July, 2013.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE